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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,118	08/28/2000	JHEROEN P. DORENBOSCH	PF2054NA	9447

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MOTOROLA INC
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EXAMINER

MOORMAN, EARL J

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/650,118

Applicant(s)

DORENBOSCH ET AL.

Examiner

Earl J. Moorman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. **Claim 9** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 states that "the communication device informs the system relative to a subscribed class of service". This leads to confusion because the claimed invention has a plurality of communication devices. Appropriate correction is required. However, for the purpose of prior art rejection, the examiner has interpreted the limitation of claim 9 as "the at least one communication device informs the system relative to a subscribed class of service".

Claim Objections

3. **Claim 14** is objected to because of the following informalities: on line 15, the claim reads "main base station and the back of system component"; however, the claim should read "main base station and the backup system component. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 1-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al. [U.S. Patent Number 6,408,182] (hereinafter Davidson) in view of Iseyama [U.S. Patent Number 6,192,232].

7. Regarding **claim 1**, Davidson teaches a communication system [FIG.2] that provides backup wireless communication services comprising a main system component [primary MSC] that normally serves all of the plurality of the communication

devices and a backup system component [backup MSC] for the main system component that serves the at least one first and the at least one second communication devices based on a class of service associated with a communication device, when the main system component goes out of service [abstract; col.1, lines 44-67; col.2, lines 1-35]. Davidson fails to teach a plurality of communication devices that include at least one first communication device subscribed to a first class or service and at least one second communication device subscribed to a second class of service.

However, Iseyama teaches a plurality of communication devices that include at least one first communication device subscribed to a first class or service and at least one second communication device subscribed to a second class of service [col.1, lines 53-67; col.2, lines 1-15; col.3, lines 11-25].

Therefore it would have been obvious to a person of ordinary skill in the art at the time that the invention was made to include the teachings of Davidson with Iseyama in order to efficiently provide a cost-effective uninterrupted backup wireless communication system with a first class service and a second class service.

8. Regarding **claims 2 and 12**, Davidson teaches a communication system or method wherein communication service to the at least one communication device subscribed to the second class of service is terminated, when the main system component goes out of service [col.1, lines 44-57; col.3, lines 49-65].

9. Regarding **claims 3 and 13**, Davidson teaches a communication system or method wherein the first class of service has a higher service priority relative to the second class of service [col.2, lines 59-66; col.3, lines 20-23].

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10. Regarding **claim 4**, Iseyama teaches a communication system wherein the first class of service [1st base station] corresponds to an emergency service and the second class of service [2nd base station] corresponds to a non-emergency service [abstract; col.3, lines 11-25; col.4, lines 28-43]

11. Regarding **claims 5 and 14**, Davidson teaches a communication system or method wherein the main system component [primary MSC] is a main base station and the backup system component [alternate MSC] is a backup base station [col.1, lines 44-67; col.2, lines 1-35].

12. Regarding **claims 6 and 15**, Davidson teaches a communication system or method wherein the backup system component has a lower capacity than the main system component [col.3, lines 20-34; col.4, lines 34-50; col.5, lines 24-53]

13. Regarding **claims 7 and 16**, Davidson teaches a communication system or method wherein the backup system has a higher reliability than the main system component [col.2, lines 19-35; col.4, lines 34-65].

14. Regarding **claim 8**, Davidson teaches a communication system wherein information about the class of service for each communication device is stored in the system [col.3, lines 20-67; col.4, lines 1-15].

15. Regarding **claim 9**, Davidson teaches a communication system wherein the at least one communication device informs the system relative to a subscribed class of service [col.3, lines 20-67; col.4, lines 1-15].

16. Regarding **claim 10**, Davidson teaches a method for providing wireless communication services to a plurality of communication devices comprising normally

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serving all of the plurality of the communication devices using a main system component [primary MSC] and serving some but not all of the plurality of communication devices using a backup system component [backup MSC] in accordance with a class of service associated with a communication device, when the main system component goes out of service [abstract; col.1, lines 44-67; col.2, lines 1-35; col.3, lines 49-65]. Davidson fails to teach a plurality of communication devices include at least one first communication device subscribed to a first class of service and at least one second communication device subscribed to a second class of service.

However, Iseyama teaches a plurality of communication devices include at least one first communication device subscribed to a first class of service and at least one second communication device subscribed to a second class of service [col.1, lines 53-67; col.2, lines 1-15; col.3, lines 11-25].

Therefore it would have been obvious to a person of ordinary skill in the art at the time that the invention was made to include the teachings of Davidson with Iseyama in order to efficiently provide a cost-effective uninterrupted backup wireless communication system with a first class service and a second class service.

17. Regarding **claim 11**, Davidson teaches the method wherein the backup system component [backup MSC] only serves the at least one first communication device subscribed to the first class of service, when the main system component [primary MSC] goes out of service [col.1, lines 44-57; col.3, lines 49-65].

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Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pinder et al. [U.S. Patent Number 5,742,904]

Bi et al. [U.S. Patent Number 6,374,099]

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Earl J. Moorman whose telephone number is (703) 305-8158. The examiner can normally be reached on Monday-Friday 7:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William G. Trost can be reached on (703) 308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-9508 for regular communications and (703) 305-9508 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Earl Moorman *EJM*
May 1, 2003


WILLIAM TROST
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